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10/812,107

03/30/2004

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04/13/2009

EXAMINER

LANGDON, EVAN H

ART UNIT

PAPER NUMBER

3654

MAIL DATE

DELIVERY MODE

04/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/812,107

Applicant(s)

BARNETT, JAMES EARL

Examiner

EVAN H. LANGDON

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 May 2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 19:

- Line 2, "the base" should be changed to "a base."
- It is not understood what is meant by the limitation "thereby" recited on claims 5 and 6.
- It is not understood what is meant by the limitation, "eliminating the need for pre-existing mounting brackets and the need for time consuming efforts to attach brackets in the event of an emergency."

In regard to claims 19-23, it is not understood what is meant by the limitation "*articulating* extending members." It is assumed the applicant meant '*arcing* extending members,' however, the extending members straight and extend at an angle relative to the base. The limitation "articulating" is found throughout claims 19-23, please be sure to address each time it is used.

In regard to claim 20, line 3, "a base" should be "the base."

In regard to claims 21-23, line 1, "A base as recited in claim 2" should be "The base as recited in claim 20."

In regard to claim 21:

- Line 2, "a hoist" should be "the hoist."
- Line 4, "a mounting pedestal" should be "the mounting pedestal."
- Line 3, it is not understood what is meant by "particular dimensions."

In regard to claim 22, line 3, "a support tab" should be "the support tab."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panzarella et al. (US 7,458,760).

Panzarella discloses an apparatus 10 which can be attached to varying mounting surfaces (col. 4 lines 28-35) by aligning a hole in the base 13 of the apparatus and by aligning holes 28 in extending members 14/16 of the base in such a manner that the placement of bolts 32 (Fig. 1) through the holes in the base of the apparatus and the holes in the extending members and holes in the mounting surface provide a stable three point anchoring system providing for the attachment of a hoist 100 and eliminating the need for pre-existing mounting brackets and the need for time consuming efforts to attach brackets in the event of an emergency.

Panzarella while disclosing an extending member attached to varying surfaces, it fails to teach the apparatus 10 attached to flanges of varying sizes. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to attach the extending members to flanges.

In regard to claim 20, Panzarella teaches the base 13 which includes a centering hole 21 (Fig 1) through which a mounting bolt 21 with a tapered head passes;

the base which includes threaded holes into which guide bolts 21/30/25 may be screwed;

the base which includes extending members 14/16;

the extending members which include slotted grooves (Fig. 1 and 4);

the extending members which include centering holes through which mounting bolts 21/30/25 with tapered heads may pass;

the base which includes cavities 24 through which the extending members 14/16 may pass;

the base which includes threaded holes through which extending member locking bolts 21/30/25 may be screwed;

the guide bolts 21/30/25 which screw into the threaded holes and pass through slotted grooves of the extending members;

the mounting bolts 21/30/25 with tapered heads which pass through the base at centering hole and the extending members at the centering holes and universally passing through the mounting surface

tapered nuts 33 which thread onto the mounting bolts with tapered heads.

In regard to claim 21, Panzarella teaches a mounting pedestal 102 which provides for the capacity to insert a hoist 100;

the mounting pedestal which includes drilled threaded holes through which a locking screw can be threaded securing the hoist to the mounting pedestal.

Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan (US 3,671,015).

Sullivan discloses a apparatus which can be attached varying mounting surfaces (R) by aligning a hole 50 in the base 38 of the apparatus and by aligning holes 51 in extending members 52 of the base in such a manner that the placement of nail through the holes in the base of the apparatus and the holes in the extending members and holes in the mounting surface provide a stable three point anchoring system providing for the attachment of a hoist 5 and eliminating the need for pre-existing mounting brackets and the need for time consuming efforts to attach brackets in the event of an emergency.

Sullivan while discloses extending member attached to varying surfaces with nails, it fails to teach the apparatus attached to flanges of varying sizes using bolts. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to attach the extending members to flanges with bolts

In regard to claim 20, Sullivan teaches the base 38 which includes a centering hole 50 (Fig 1) through which a mounting bolt with a tapered head passes;

the base which includes threaded holes into which guide bolts 50/51/53 may be screwed;

the base which includes extending members 52;

the extending members which include slotted grooves 6;

the extending members which include centering holes through which mounting bolts 50/51/53 with tapered heads may pass;

the base which includes cavities 6 through which the extending members 52 may pass;

the base which includes threaded holes through which extending member locking bolts 50/51/53 may be screwed;

the guide bolts 50/51/53 which screw into the threaded holes and pass through slotted grooves of the extending members;

the mounting bolts 50/51/53 with tapered heads which pass through the base at centering hole and the extending members at the centering holes and universally passing through the mounting surface

tapered nuts which thread onto the mounting bolts with tapered heads.

In regard to claim 21, Sullivan teaches a mounting pedestal 7 which provides for the capacity to insert a hoist 5;

the mounting pedestal which includes drilled threaded holes through which a locking screw can be threaded securing the hoist to the mounting pedestal.

In regard to claim 22, Sullivan teaches a support tab 42, wherein the support tab to which a support 44 can be attached via a drilled hole in order to provide for increased

strength of an attached hoist and redundancy of safety in the event of the failure of a hoist. It would have been obvious design variant to one having ordinary skill in the art to use a cable or a support bar.

Response to Arguments

Applicant's arguments with respect to claim 19-23 have been considered but are moot in view of the new ground(s) of rejection. The cancelling of claims 1-18 and addition of claims 19-23 necessitated the new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVAN H. LANGDON whose telephone number is 571-272-7057. The examiner can normally be reached on Monday through Friday, 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EVAN H LANGDON/
Primary Examiner, Art Unit 3654